

REMARKS

In the Office Action mailed April 1, 2009, the Office noted that claims 17, 20-23, 25-31 and 33 were pending and rejected claims 17, 20-23, 25-31 and 33. Claims 17, 20, 23, 26-31 and 33 have been amended, no claims have been canceled, and, thus, in view of the foregoing, claims 17, 20-23, 25-31 and 33 remain pending for reconsideration which is requested. No new matter has been added. The Office's rejections are traversed below.

CLAIM OBJECTION

Claim 27 stands objected to for informalities. In particular, the Office asserts that the claim lacks punctuation. The Applicants have amended the claim to include commas where appropriate.

Withdrawal of the objection is respectfully requested.

REJECTIONS under 35 U.S.C. § 102

Claims 17, 20-23, 25, 26 and 33 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Lee, U.S. Patent No. 7,113,475. The Applicants respectfully disagree and traverse the rejection with an argument and amendment.

Lee discusses an optical information storage medium where nominal recording speed information is recorded in a read-only zone, and maximum and minimum recordable speed information

is recorded in a recordable zone of an area other than a user data area.

The Applicants have amended claim 17 to recite "at least one of the plurality of recording layers has a management information area to record therein **at least (i) first** recording condition information which indicates **a first** optimum recording condition for **a first** recording layer **of the plurality of recording layers** when the information is recorded **into the first recording layer and (ii) a second recording condition information which indicates a second optimum recording condition for a second recording layer of the plurality of recording layers when the information is recorded into the second recording layer, at least (i) a first** recording speed information which indicates a first recordable maximum speed for **the first recording layer and (ii) a second recording speed information which indicates a second recordable maximum speed for the second recording layer** are recorded in the management information area, the **first** recording condition information for **the first recording layer** is recorded in the management information area, correspondingly to the **first** recording speed information, **the second recording condition information for the second recording layer is recorded in the management information area correspondingly to the second recording speed information,** the management information area is disposed nearer an inner circumference in a top layer out of the plurality of recording layers and includes a portion in which the

recording condition information with respect to the plurality of recording layers is collectively recorded, the **first and second** recording condition information **includes** strategy information."

(Emphasis added) The Applicants submit that support for the amendments may be found, for example, in Figures 4, 6 and 10 and the supporting text of the Specification. The Applicants submit that no new matter is believed to have been added by the amendment of the claims.

On page 2 of the Office Action in the *Response to Arguments*, the Office states "since Applicant does not specify how his claimed maximum speed is assigned to each of his plurality of recording layers, it is reasonable to assume that the maximum speed is common to each of the recording layers similar to the prior art of Lee's".

However, as described above, the Applicants have amended the independent claims such that (i) the first recording condition information and the first recording speed information (i.e. the first optimum recording condition and the first recordable maximum speed) are uniquely assigned to the first recording layer and (ii) the second recording condition information and the second recording speed information (i.e. the second optimum recording condition and the second recordable maximum speed) are uniquely assigned to the second recording layer. Therefore, in the present invention, the claimed maximum speed is not common to all of the recording layers (i.e. the

first and second recording layers), but unique to respective one of the recording layers (i.e. the first and second recording layers).

Therefore, since Lee merely discusses the maximum common to all of the recording layers and does not disclose the maximum unique to respective one of the recording layers, Lee does not disclose the novel feature of claim 17 such as the first and second recordable maxim speed. This also means that Lee does not disclose the novel feature of claim 17 such that (i) the first recording condition information for the first recording layer is recorded in the management information area, correspondingly to the first recording speed information and (ii) the second recording condition information for the second recording layer is recorded in the management information area, correspondingly to the second recording speed information.

For at least the reasons discussed above, claim 17 and the claims dependent therefrom are not anticipated by Lee.

Withdrawal of the rejections is respectfully requested.

REJECTIONS under 35 U.S.C. § 103

Claims 27-31 stand rejected under 35 U.S.C. § 103(a) as being obvious over Lee in view of Ito, U.S. Patent No. 7,184,377. The Applicants respectfully disagree and traverse the rejection with an argument.

The Applicants have likewise amended claims 27 and 31

in a manner consistent with the amendment to claim 17. Thus, for the reasons discussed above, as to claim 17, Lee and Ito, taken separately or in combination, fail to render obvious the features of claims 27 and 31 and the claims dependent therefrom.

Withdrawal of the rejections is respectfully requested.

SUMMARY

It is submitted that the claims satisfy the requirements of 35 U.S.C. §§ 102 and 103. It is also submitted that claims 17, 20-23, 25-31 and 33 continue to be allowable. It is further submitted that the claims are not taught, disclosed or suggested by the prior art. The claims are therefore in a condition suitable for allowance. An early Notice of Allowance is requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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